



**UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office**

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
08/869,872	06/02/97	BROWNELL	C 13237-1560

JONES AND ASKEW
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LM71/1229

EXAMINER

CAUDLE, P

ART UNIT

PAPER NUMBER

2765

DATE MAILED: 12/29/99

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Advisory Action

Application No.

08/869,872

Examiner

Penny Caudle

Applicant(s)

BROWNELL ET AL.

Art Unit

2765

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 14 December 1999 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either a timely filed amendment which places the application in condition for allowance or a Notice of Appeal. Alternatively, applicant may obtain further examination by timely filling a request for a Continued Prosecution Application (CPA) under 37 CFR 1.53(d).

PERIOD FOR REPLY [check only a) or b)]


- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
- b) ☒ In view of the early submission of the proposed reply (within two months as set forth in MPEP § 707.07 (f)), the period for reply expires on the mailing date of this Advisory Action, OR continues to run from the mailing date of the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Extensions of time may be obtained under 37 CFR 1.136 (a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked.

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will be entered upon the timely submission of a Notice of Appeal and Appeal Brief with requisite fees.
3. ☒ The proposed amendment(s) will not be entered because:
- (a) ☒ they raise new issues that would require further consideration and/or search. (see NOTE below);
 - (b) ☐ they raise the issue of new matter. (see Note below);
 - (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet.

4. ☐ Applicant's reply has overcome the following rejection(s): _____.
5. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
6. ☐ The a) ☐ affidavit, b) ☐ exhibit, or c) ☐ request for reconsideration has been considered but does NOT place the application in condition for allowance because: _____.
7. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
8. ☐ For purposes of Appeal, the status of the claim(s) is as follows (see attached written explanation, if any):
- Claim(s) allowed: _____.
- Claim(s) objected to: _____.
- Claim(s) rejected: _____.
- Claim(s) withdrawn from consideration: _____.
9. ☐ The proposed drawing correction filed on _____ a) ☐ has b) ☐ has not been approved by the Examiner:
10. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____.
11. ☒ Other: See Continuation Sheet


ALLEN R. MACDONALD
SUPERVISORY PATENT EXAMINER

Continuation of 3. NOTE:

The scope of the new claims would require further consideration of prior art (i.e. U.S. Patent # 5,842,185). As discussed with the applicant's representative in the phone conversation on November 22, 1999, the new claims, specifically claim 26, overcome the prior art of record. However, the examiner did NOT indicate that the new claim would be allowed, only that the new claim would overcome the prior art of record, nor did the Examiner indicate that any after final amendment would be entered. The examiner merely acknowledged that the applicant's representative intended to file an amendment.

Continuation of 11. Other:

The Information disclosure statement filed in this application on December 13, 1999 fails to include the petition after Final Rejection required under 37 C.F.R. 1.97(d). See 1135 O.G. 13 dated February 4, 1992, which is effective for all information disclosure statements filed after March 16, 1992.

The petition should also be accompanied by the required fee set forth under 37 C.F.R. 1.97(d) and 1.17(i)(1) and a proper certification as specified in 37 C.F.R. 1.97(d) and 1.97(e).

The information disclosure statement has been made of record in the application file but will not be considered by the examiner until it complies with 37 C.F.R. 1.97-1.98.